Supreme Court, U.S.
FILED
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No. ——

In the Supreme Court of the United States

ROSEMARY C. BUTCHER ET AL.,
Petitioner,

v.

JOBST W.F. BLACHY, ET AL.,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

ROBERT E. BUTCHER
Counsel of Record

9505 GROH ROAD
P.O. BOX 900
GROSSE ILE, MI 48138
(734) 675-2136

Counsel for Petitioner

Becker Gallagher Legal Publishing, Inc. 800.890.5001

QUESTIONS PRESENTED

1. Whether the judicial power of the federal courts under Article III, Section 2 [1] To suits against the Internal Revenue Service?

2. Whether a judgment in a case removed from State Court is void, when state law prohibits suit by third party beneficiaries against the donor promisee. i.e Did the insured Plaintiffs have standing to sue Defendants who provided them with title insurance policies issued by Lawyers Title?

3. Whether the lower courts lacked subject – matter jurisdiction when, at the time of filing in State Court, the only federal "entity" was the Internal Revenue Service ("IRS")?

4. Where the IRS removed the case from State Court to Federal Court, and the United States was neither a named Defendant nor a removing Defendant, was the Court's judgment void for lack of subject matter jurisdiction and/or jurisdiction over the parties?

5. Was imposition of sanctions on Appellants an abuse of discretion?

6. Whether claimed creditors of a husband who obtain a constructive trust over the husband's interest in property 7 years after his death have priority over the wife's widow's probate rights, where the marriage occurred years before the constructive trust claims arose?

7. Whether Plaintiff Lawyers Title had standing to sue on behalf of its insureds, where it neither sought nor obtained relief in its own name?

PARTIES TO THE PROCEEDING

PETITIONERS

Robert E Butcher and Rosemary C Butcher, co-personal representatives of the Estate of Alexander M Butcher, deceased; Rosemary C. Butcher, an individual; Little Traverse Development Company, a Michigan Corporation, and HC Development Company, a Michigan Corporation. The Corporate entities, Little Traverse Development Company and HC Development Company, have no parent companies or non-wholly owned subsidiaries.

RESPONDENTS

Jobst WF Blachy; Lynn A Blachy; Davida Gale; Peter E Boss; Jeannette A. Boss; Kenneth W Gitlin; Roslyn E. Gitlin; Joseph H Jones; Barbara Ann Jones; TFC Agency, Incorporated, a Michigan Corporation; George F Malley; Barbara C Malley; Richard A Monash; Carol Monash; Charlotte R Monash; E Jerome McCarthy; Gunther S Meisse; Jeanne R Meisse; Irving Shanbom; Patricia Shanbom; Ronald W Mitchell; Patricia W Mitchell; Anthony J D'Errico; Ann T D'Errico; Northwestern Savings and Loan Association; Lawyers Title Insurance Corporation; Thomas G Allshouse; Sheryle K Allshouse; First Nationwide Bank; and United States of America, on behalf of the Internal Revenue Service

Respondent Lawyers Title Insurance Corporation is a principal subsidiary of a publicly owned corporation, LandAmerica Financial Group, Inc. No other respondent corporation has either a publicly owned parent or non-wholly owned subsidiary company.

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OPINIONS BELOW

The first opinion of the United States Court of Appeals for the Sixth Circuit is reported at 221 F 3d 896 (6th Cir 2000). A copy of the Opinion is included in App C at 21a . The Opinion of the District Court for the Western District of Michigan, Southern Division dated March 10, 1999, is published at 35 F Supp 2d 554. The District Court ordered entry of the Final Judgment on March 10, 1999.

The Opinion of the United States Court of Appeals for the Sixth Circuit affirming the denial of the Appellants' Motion for F Civ P 60(b)(4) relief, dated April 12, 2005, from which this appeal is taken, is included in App A at 1a.

JURISDICTION

The United States Court of Appeals for the Sixth Circuit issued its opinion on April 12, 2005, (App A at 1a). The jurisdiction of this Court is invoked under 28 USC § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const, Amended V
Takings Clause

No person shall ... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Const, Art III, Section 2.[1]

Section 2. [1] The judicial Power shall extend to all cases, in Law and Equity, * * * arising under this Constitution, the

Laws of the United States, * * * to Controversies to which the United States shall be a Party * * *.

Bankruptcy Code - Property of the Estate
11 USC 541(a)(1) and (7)

Section 541. Property of the Estate

(a) The commencement of a case under § 301, 302, or 303 of this title creates an estate. Such estate is comprised of all the following property, wherever located and by whomever held:

(1) Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of the case.

* * *

(7) Any interest in property that the estate acquires after the commencement of the case.

* * *

Bankruptcy Code - Exemption
11 USC § 522(b)(2)(B)

(b) Notwithstanding § 541 of this title, an individual debtor may exempt from property of the estate the property listed in either paragraph (1) or, in the alternative, paragraph (2) of this subsection.

* * *

(B) Any interest in property in which the debtor had, immediately before the commencement of the case, an